

# 3. Creating an Urban Renewal Agency

Urban renewal agencies are separate and unique entities that may be activated by municipal entities (cities or counties) via authority of Oregon Revised Statutes (ORS 457.035).

As a separate entity, the elected municipal governing board must establish the governing structure of the URA, including appointing a board. This decision may be influenced by a number of factors discussed in this section, as well as other factors such as the various projects and programs that are considered for inclusion in the URA's Plan.

## CHAPTER CONTENTS

This chapter contains the following sections:

- 3.1 Establishing the Board
- 3.2 Advisory Committees



Picture of board or advisory committee.

### 3.1 ESTABLISHING THE BOARD

#### A. Background

Urban renewal agencies are governed by a separate and distinct board from the municipality by which it was formed. The municipal entity that creates the URA is responsible for determining the structure of the board, as provided by ORS. There are three potential structures for the urban renewal agency board:

- Governing body itself
- Separate group—appointed by the municipal governing body
- Housing authority

#### B. Statutory Provisions

ORS 457.045 provides that a municipality's governing body may choose to exercise the powers of an urban renewal agency by:

- (1) the municipality's housing authority,
- (2) a separate board or commission of no fewer than three members, or
- (3) by the governing body itself, acting as a governing body separate from the municipality they were elected to represent.

A housing authority functioning as an urban renewal agency must appoint an advisory board, but otherwise, advisory committees are not required.

#### C. Discussion

Historically, in Oregon, elected municipal officials have generally desired substantial control over urban renewal decisions. Therefore, most urban renewal agency boards consist of the members of the city council or county commission. Of those urban renewal agencies where the municipality's governing board created boards consisting of non-elected officials, some require that at least one member of the board be an elected municipal official.

The governing bodies of municipalities just starting an urban renewal program can sometimes find it difficult to decide whether to establish a separate board or retain direct authority. There are examples where municipalities have created a separate board and later decided to return authority to the elected governing body. The agency board may also decide whether or not to designate one or more advisory committees, and if so, the board also determines what functions the committee(s) should serve.

So what is the best governance structure and why? Although there are no specific authoritative sources that address best practices for local government board governance, guidance can be found in *Best Practices: Nonprofit Corporate Governance* and the *Five Habits of High Performance Boards*. The key issues raised by the authors of these documents are as follows:

Key considerations included in both documents directly relevant to the creation of an urban renewal agency:

- The relationship between the board and staff
- Duty of loyalty, distinct entity

### ***Relationship between board and staff***

The success of the URA, just as is the case with the municipality itself, is very much dependent upon the staff and the support they receive from the urban renewal agency board. Additionally, what often undermines the success of an organization are actual or perceived conflicts of interest.

Practically speaking, there are very few urban renewal agencies that have the staff resources to operate independently. Although the urban renewal agency may have staff dedicated to urban renewal projects and activities, the agency is generally supported by departments in the rest of the municipal organization, such as finance, planning, public works, and city or county management. This reality makes it very challenging for staff should there be two separate and distinct boards.

### ***Duty of loyalty***

The duty of loyalty to a distinct entity may be addressed through the recognition that the urban renewal agency is a “component unit” of its founding municipality. In other words, loyalty belongs to the parent entity, i.e., the municipality that created the urban renewal agency.

Urban renewal functions and activities are generally specific and limited. The urban renewal agency’s authority is controlled not only by state law but also by policy documents, e.g., the urban renewal plan, that specify, among other items, the projects and activities to be undertaken, the estimated cost of projects and activities, the maximum amount of funding, and the estimated period of time to accomplish the plan.

Each urban renewal plan is different, with various projects and activities of the urban renewal agency supporting the overall vision. Therefore, each urban renewal agency has different leadership and governing requirements, and these may vary from time to time during the life and implementation of an urban renewal plan.



Picture of board or advisory committee.

#### ***Municipal governing board vs. appointed board configuration***

There are advantages and disadvantages to each of the two options that are currently used in Oregon (no housing authorities currently exercise urban renewal powers).

**Table 2. Overview of Board Structure**

	<b>ELECTED CITY OR COUNTY OFFICIALS</b>	<b>APPOINTED BOARD</b>
<b>Direct oversight of elected officials</b>	Retained	Compromised
<b>Perception of decision being final</b>	Retained	Perception may be that decisions may be challenged
<b>Public attendance at meetings</b>	Improved attendance (other business)	Attendance may be reduced
<b>Representation of board</b>	Limited to elected officials	Board members with unique qualifications can be recruited
<b>Accountability</b>	Accountable to voters	Accountable to elected body
<b>Stability</b>	Potential to be less stable (subject to change with each election)	Generally more stable
<b>Sufficient Attention</b>	Heavy demands of the primary entity may reduce attention—involvement with other related issues may offset	Generally more direct attention

#### ***1. City council or county commission as agency board***

The advantages of designating the city council or commission or county commission as the urban renewal agency board include:

- Direct oversight is retained by the municipality’s elected officials. Given the scope and importance of decisions regarding urban renewal in most communities, this degree of oversight is important.
- Decisions will be considered final, as opposed to the decisions of a separate board, which might be appealed to the governing body. (However, the decisions of a separate urban renewal agency board in undertaking an adopted urban renewal plan are not, strictly speaking, appealable to the municipal’s governing body.)
- The urban renewal agency’s board meetings may be better attended if they are held concurrently with council or commission meetings.

The disadvantages of this form of governance include:

- Representation on the urban renewal agency board is limited to the elected municipal officials. Opportunities for other qualified or interested citizens (e.g., real estate developers, lenders, and other experts) to directly participate in agency governance are eliminated.
- Board membership can be unstable, i.e., subject to change with each election, potentially resulting in a lack of continuity in urban renewal agency governance and decision-making. This instability is often mitigated by continuity among staff, legal representation, and advisors.
- Urban renewal agency decisions may, in part, be based on political agendas rather than sound development considerations.
- Urban renewal agency issues may not receive sufficient attention from board members who often have heavy demands placed on them in their roles as city council or county commission members. This can be mitigated by the use of advisory committees (ad-hoc or otherwise).
- Actual or perceived conflicts between the urban renewal agency and the municipality may exist, making it more difficult for these interests to be kept separate.
- The urban renewal agency board may not be as willing to advocate for their interests when they conflict with municipal interests.
- In some cases, there may be simple confusion as to which legal body has the authority to make a particular decision.

## ***2. Separate agency board***

The advantages of designating a separate urban renewal agency board include:

- The board's full attention can be given to urban renewal matters.
- The board may be more likely to represent the interests of the urban renewal agency in those circumstances where there may be conflicts with the municipality.
- The potential conflict of interest is limited as the urban renewal agency is a component unit of the parent municipality.
- Urban renewal agency decisions might be more likely to be made on the basis of sound development considerations.
- Board membership may include one or more elected officials in order to retain a measure of direct oversight by the municipal governing body.
- There may be other unintended consequences associated with appointing fewer than all elected officials to an advisory committee.

- Perception, real or not, that the appointed elected officials speak for the majority of the municipal governing board.
- Potential communication issues created by filtering information.
- Board membership may represent particular areas of expertise, interests in the community and/or within the URA.

The disadvantages of this form of governance include:

- The municipal governing body may be unwilling to truly delegate authority to a separate board, and this may result in “second guessing” board decisions.
- The board is less accountable to the voters of the municipality.
- Board decisions may not be considered final by the public. They may be appealed to the governing body, causing delays or reversals of board decisions.
- In smaller organizations, where the same staff that perform city or county functions also perform urban renewal functions, the potential for conflicting direction increases.

### *Urban renewal boards in Oregon*

In Oregon, a majority of urban renewal agencies are governed by the elected officials of the municipality by which it was created. Additionally, there are examples within the state of the elected body of the municipality changing the board composition to address changes in conditions within the community or the urban renewal plan.

**Table 3. Elected boards vs. appointed boards**

	ELECTED CITY OR COUNTY OFFICIALS	APPOINTED BOARD
<b>Number of agencies</b>	Retained	Compromised
<b>Advisory boards</b>	Retained	Perception may be that decisions may be challenged
<b>Change in board composition</b>	Improved attendance – other business	Attendance may be reduced

### **D. Best Practices Tips**

- Elected officials of the municipal governing board are encouraged to give serious consideration to the issues presented above. They should also consider public comments about the various options for board composition, given their specific plan, community, and other issues, prior to forming the urban renewal agency and/or making changes to an existing agency board.

- If the municipal governing board chooses to appoint a “separate group,” whether that group includes one or more elected municipal governing board members or not, the municipal governing board is encouraged to document desired board member profiles, roles and responsibilities for the board, its members, and the governing body.

## 3.2 ADVISORY COMMITTEES

### A. Background

Any form of an urban renewal agency board may appoint an advisory committee, although advisory committees are more frequently appointed by boards that consist of the municipal governing body.

### B. Statutory Provisions

There are no statutory provisions for advisory committees.

### C. Discussion

Appointing an advisory committee(s) can help mitigate some of the disadvantages of having the city council or county commission serve as the urban renewal agency board.

- Advisory committees can devote their full attention to urban renewal issues, and the urban renewal agency board, in many cases, can choose to heavily rely on their advice.
- Advisory committees can also broaden participation in urban renewal decisions and can represent varying interests and expertise in the community.
  - Municipalities should be aware that advisory committees may have a tendency to desire direct decision-making authority when it is not desired by the urban renewal agency board, which can lead to conflicts with the urban renewal agency board.
- The urban renewal agency board can also decide whether the committee is to advise on all urban renewal issues or only on certain types of issues.
- Ad-hoc committees may serve the urban renewal agency board best because they have a limited scope and time frame. This may serve to:
  - Increase the efficiency of an organization
  - Reduce potential conflicts in authority with elected boards



Picture of advisory committee.

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- o Increase ability to recruit experts for a given project or program
- o Expand the field of potential committee members due to reduced length of time commitment
- An urban renewal agency board can give consistent and substantial weight to advisory committee recommendations.
- Though the urban renewal agency board is not bound by advisory committee recommendations, if such recommendations are not given a prominent place in board decisions, the advisory committee will lose its effectiveness.
- Ad-hoc committees can be assigned to specific projects or programs.

**Table 4. Ad-hoc committees vs. standing committees**

	<b>AD-HOC COMMITTEE</b>	<b>STANDING COMMITTEE</b>
Dedicate full attention to agency activities	Yes	Yes
Broaden participation in agency activities	Yes	Yes
May desire direct decision authority	Less likely	More likely
Limited scope and time line	Generally	Generally no
Increase efficiency of staff	Generally	Possibly, but less often
Reduce potential conflicts of authority with elected officials	Generally	Possibly, but less often
Increase potential to recruit experts	Yes	More so than elected bodies, less so than ad-hoc committee
Expanded pool of potential members due to reduced time commitment	Yes	More so than elected bodies, less so than ad-hoc committee

#### **D. Best Practices Tips**

If the board consists of the municipal governing board, AORA encourages the use of ad-hoc committees to advise the municipal governing board on various projects and/or programs.

If jurisdictions decide to create continuing advisory committees, then these committees should have clear and defined parameters, and those parameters should include topics like: purpose, composition, term-limits, staffing costs, etc.